

it further appearing that petitioner is a person authorized or under obligation to dispose of the remains and no other person has a prior right thereto; and

it further appearing that petitioner is a person authorized to make anatomical gifts; and

it further appearing that Petitioner's mission of promoting public education on matters of historical and genealogical interest will be advanced by the forensic and genetic testing to be performed; and

it further appearing that there is no evidence that the deceased had religious or moral beliefs in opposition to the relief requested by petitioner; and

it further appearing that Petitioner has engaged the services of a licensed funeral director to supervise the removal and reburial of the decedent's remains.

NOW, upon motion of David J. Bamonte, attorney for Petitioner, it is

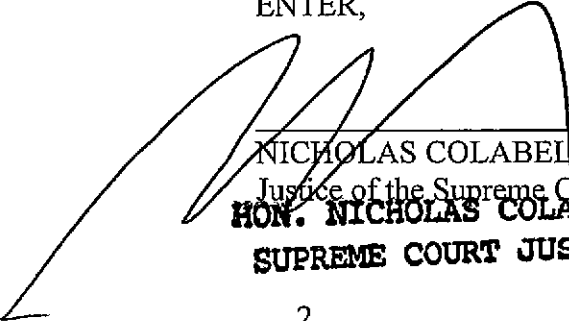
ORDERED that Petitioner be permitted to take the following actions:

(1) remove the remains of the Decedent from his present burial location in Sparta Cemetery;

(2) conduct the following tests: (a) forensic gross morphological evaluation of the biological life history of Decedent; (b) a CT scan of the decedent's skull; and (c) DNA testing of a molar and/or a fragment of large bone; and (d) stable carbon isotope and trace element analysis of such dental and/or bone tissue; and

(3) rebury the remains at Sparta Cemetery in an appropriate location away from New York State Route 9; with the foregoing actions to be completed within one year.

ENTER,



NICHOLAS COLABELLA,
Justice of the Supreme Court
HON. NICHOLAS COLABELLA
SUPREME COURT JUSTICE

SUPREME COURT, STATE OF NEW YORK
COUNTY OF WESTCHESTER

X-----X

In the Matter of the Application of the
Ossining Historical Society Museum
for an order pursuant to
Not-for-Profit Corporations Law
Section 1510.

VERIFIED PETITION

Index No. 26005-10

RECEIVED

OCT 14 2010

TOWN OF OSSINING
COUNTY OF WESTCHESTER

COUNTY OF WESTCHESTER
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FILED

NOV - 8 2010

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PETITIONER seeks an order permitting removal of a body from a cemetery owned by
Petitioner, for forensic and genetic testing to be performed on said remains for the purpose of
public education on historical and genealogical matters in accordance with Petitioner's mission,
and for reburial of said remains within said cemetery. The individual whose remains are sought
to be removed, examined and reburied is a person of local historical interest known as the
Leather Man.

1. Petitioner is a New York Not-for-Profit corporation chartered by the State of New York,
Department of Education Board of Regents, on December 20, 1935 and is the owner in fee of
the Sparta Cemetery, a cemetery originally owned by the First Presbyterian Church of Ossining,
New York and conveyed to Petitioner by deed, dated December 7, 1984 and recorded in the
Office of the Clerk of the County of Westchester, Division of Land Records, at Liber 8001 of
deeds at page 301, on January 3, 1985. Such conveyance was made in accordance with an Order
of the Supreme Court of the State of New York, County of Westchester, Hon. George D.
Burchell, dated and filed on November 30, 1984 (Index # 19034). Said premises is known as
Section 3, Plate 29, Lot 73-1 on the Tax Assessment records of the Town of Ossining. The

petition for the relief sought herein was authorized by unanimous consent of the trustees of Petitioner at a regular meeting.

2. Petitioner seeks to remove the body of an historical figure known as the Leather Man (the "Decedent") from a grave site located close to New York State Route 9, which site lies at least partially beneath a service road entering the cemetery. The Decedent had been interred in 1889 as an indigent person in a pauper's grave at the edge of the cemetery property at the expense of the County of Westchester. The remains of the Decedent after removal will be reburied by Petitioner in a gravesite in the main portion of the cemetery in a safer and more dignified setting.

3. Pursuant to Not-for-Profit Corporations Law Section 1510, the persons interested in this proceeding and who must consent in writing (except as otherwise noted) to the removal of the remains are (i) the cemetery owner (whose consent need not be in writing), (ii) the burial plot owners, (iii) the surviving spouse of the decedent, (iv) the children of full age of the decedent and (v) the parents of the decedent. Petitioner owns the cemetery and both burial plots. Upon information and belief, the Decedent died in 1889, was not married, had no children and the parents of the decedent are not living. See the affidavit of Dan W. Deluca (the "DeLuca Affidavit") attached as Exhibit 1 as support for Petitioner's contention that no other persons are interested in the within proceeding. Therefore, Petitioner is the sole person interested in this proceeding and Petitioner hereby consents to the removal and reburial of the remains.

4. The ground in which the Decedent is buried is not consecrated; the proposed plot for reburial is consecrated ground and is owned by Petitioner. Petitioner has no knowledge of any religious preference of the Decedent.

5. The location of the Decedent's grave is close to the busy state highway known as

Route 9. Because of the popularity of the grave location as a site of local historical interest, the numerous persons who visit the grave site and its proximity to the highway, Petitioner cites the public health and safety as the primary basis for requesting an order permitting the relocation of the Decedent's remains. See the affidavit of Bernard Adler attached hereto as Exhibit 2 as support for Petitioner's allegation that the public health and safety would be served by removal of the Decedent's remains. See the affidavits of Cathy Crisfield and John Lee, attached respectively as Exhibits 3 and 4, as support for the allegation that the grave site is a site of local historical interest and is a popular stop on guided and self-guided tours of Sparta Cemetery.

6. The mission of the Society pursuant to its bylaws is to promote the public interest in historical and genealogical matters. Petitioner respectfully submits that such interest will be served by forensic and DNA testing of the Decedent's remains.

7. Upon removal, Petitioner would be a person authorized or under obligation to dispose of the body pursuant to Public Health Law Section 4301(h) and is permitted to make anatomical gifts which, in this instance, would consist of a small amount of bone tissue and/or a molar tooth. There are no living persons with a priority over Petitioner pursuant to said Section 4301 with respect to making or prohibiting any such anatomical gift from Decedent's remains. See the Deluca Affidavit at Exhibit 1 for the basis of Petitioner's belief that no persons have a prior right to Petitioner to make or prohibit such an anatomical gift. Petitioner has no knowledge that any such anatomical gift would be contrary to the religious or moral beliefs of the Decedent.

8. In fulfillment of its stated mission, Petitioner seeks to conduct various forensic and genealogical tests on the remains of Decedent and has engaged a prominent anthropologist and his team to perform such tests. Forensic testing will not result in any harm to the remains examined and largely will be conducted at the grave site, after which testing such remains will be

reburied; DNA testing will result in the destruction of a small amount of tooth or bone tissue, estimated at four grams of mass, and will be conducted at a laboratory in conformity with Public Health Law Section 4302. See the affidavit of Dr. Nicholas Bellantoni attached hereto as Exhibit 5 for a description of the testing to be conducted. It is anticipated that the entirety of time for removal, testing, analysis and reburial may take up to one year. To ensure that the Petitioner complies with all legal requirements, Petitioner has assigned one of its members to oversee the proposed removal. Such member, George Camp of Dorsey Funeral Home of Ossining, New York, is a funeral director licensed by the State of New York and, as such, has the authority and the means to remove, store, transport and rebury the Decedent's remains.

WHEREFORE, Petitioner requests an order permitting and directing:

(1) the removal of the remains of the Decedent from his present burial location in Sparta Cemetery for the purposes of improving the public health and safety;

(2) for the purposes of expanding the historical record, testing including and limited to (a) forensic gross morphological evaluation of the biological life history of Decedent, to be performed within the cemetery without the destruction of remains, after which testing the remains will be reburied; (b) a CT scan of the skull for the purposes of three-dimensional imaging of the cranio-facial features for a reconstruction of the Decedent's face, without the destruction of the skull, after which testing the remains will be reburied; and (c) DNA testing of a molar and/or a fragment of large bone, preferable from the femur and weighing approximately 4 grams, which will involve the destruction of such dental and/or bone tissue submitted for testing, so as to determine the Decedent's ancestry; and (d) stable carbon isotope and trace element analysis to determine the diet of the Decedent which will involve the destruction of such dental and/or bone tissue submitted for testing; and

Exh. 1

SUPREME COURT, STATE OF NEW YORK
COUNTY OF WESTCHESTER

X-----X

In the Matter of the Application of the

Ossining Historical Society Museum

for an order pursuant to

Not-for-Profit Corporations Law

Section 1510.

X-----X

AFFIDAVIT IN SUPPORT

Index No.

Following is the affidavit of Dan W. DeLuca.

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2

SUPREME COURT, STATE OF NEW YORK
COUNTY OF WESTCHESTER

X-----X

In the Matter of the Application of the
Ossining Historical Society Museum
for an order pursuant to
Not-for-Profit Corporations Law
Section 1510.

AFFIDAVIT IN SUPPORT

Index No.

X-----X

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

BERNARD ADLER, being duly sworn, hereby deposes and, under penalties of perjury, states as follows:

1. My name is Bernard Adler. I am the Founder and President of Adler Consulting, Transportation Planning & Traffic Engineering, PLLC, located at 235 Main Street, White Plains, New York 10601-2401.

2. This Affidavit is submitted in support of Petitioner’s request to exhume the body of an individual known as “the Leather Man” from a grave situated approximately 20 feet in from the edge of the roadway on US Route 9 in the Village of Ossining.

Qualifications

3. I received a Bachelor of Electrical Engineering degree from the City College of New York in 1962, an M.S. in Electrical Engineering from Polytechnic Institute of Brooklyn in 1966, and an M.S. in Management Engineering from Long Island University in

1970. I have successfully completed postgraduate courses in Management Sciences at the Stevens Institute of Technology. I am a Professional Engineer registered in New York, New Jersey and Connecticut. (A copy of my resume is attached hereto as Adler Exhibit "J").

4. From 1979 through 1987, I was Commissioner of Traffic for the City of White Plains, New York, during its rapid expansion. In that capacity, I was responsible for the design, maintenance and operation of the City's central traffic control system, and provided guidance to the Mayor and Common Council on matters affecting the welfare of the public with respect to traffic.

5. I am also a Fellow of the Institute of Transportation Engineers ("ITE"), a past member of ITE's International Board of Direction, a past President of the Metropolitan Section of ITE, and I have served on many committees at the International, District and Section levels. I served as General Chairman of ITE's 57th Annual Meeting held in New York City in 1987.

6. I am also a member of other professional societies, the author of many published papers, and formerly an Adjunct Assistant Professor of Civil Engineering at Manhattan College, Riverdale, New York.

7. I have served both the public and private sector in traffic and transportation for over forty (40) years.

8. I established Adler Consulting, Transportation Planning & Traffic Engineering, PLLC ("Adler Consulting"), in 1991. Adler Consulting is located in White Plains, New York and provides professional engineering services in the areas of Transportation Planning and Traffic Engineering.

9. Adler Consulting specializes in traffic impact analyses, traffic safety studies, transportation planning, highway corridor studies, intelligent transportation systems ("ITS"), traffic signal design, environmental impact statements, pedestrian analyses and other services related to traffic and transportation.

10. Our highly trained and skilled professional staff has experience supervising and conducting environmental impact assessments, traffic safety studies, transportation planning studies, highway and traffic signal design, and traffic impact and monitoring studies for both the public and private sectors. Our staff also has experience in evaluating and deploying ITS technology.

11. Additionally, I have regularly testified as an expert witness, lectured on traffic engineering and submitted written affidavits within my area of expertise in proceedings before numerous municipal governing bodies.

Supporting Documents

12. In evaluating the petitioner's request, representatives of my firm contacted the New York State Department of Transportation ("NYS DOT") for all documents pertaining to the section of US Route 9 which abuts the Sparta Cemetery in which the individual, known as the Leather Man, is reputed to be buried.

13. The NYSDOT provided me with pages 532 and 533 of the Laws of the Colony of New York (attached as Adler Exhibit "A") indicating the establishment of the original road which now constitutes US Route 9 and a construction document, "Sheet No. 2. Route 2 –

Sec-7", (attached as Adler Exhibit "B") depicting US Route 9 between Station 1196 and 1199 adjacent to the Sparta Cemetery in the Village of Ossining.

14. I also reviewed records of burial headstones at Sparta Cemetery compiled by Jean Ann Orser Lupinetti and posted at <http://www.rootsweb.ancestry.com/~nywestch/cemetery/sparta01> (Adler Exhibit "C").

15. Daily traffic volumes contained in the NYS DOT 2008 Traffic volume report were also reviewed (Adler Exhibit "D").

16. Finally, I and a member of the professional Staff at Adler Consulting also visited the site of the Leather Man's grave at Sparta Cemetery, in the Village of Ossining, to document the salient features as they relate to road safety.

Findings of Fact

17. The Laws of the Colony of New York indicate that an Act was passed on June 19, 1703 "for the better Laying out, ascertaining, Repairing and preserving the Publick Comon and General highways" within the colony (Adler Exhibit "A" -Laws of the Colony of New York at page 532).

18. The Act of 1703 set forth that "one other Publick Comon General Highway to Extend from Kings Bridge in the County of West Chester thro the same County of West Chester Dutchess County and the County of Albany the breadth of four Rod English Measure at the least to be Continue and remain for ever the Publick Common General Road and Highway" (Adler Exhibit "A" - Laws of the Colony of New York at page 533).

19. According to the Act of 1703, the width of the public right-of-way was to be set at four (4) English Rods.

20. One English Rod is the equivalent of 16.5 feet, making the stated width of the right-of-way of the aforementioned roadway 66 feet.

21. Sparta Cemetery was, according to the attached photograph (Adler Exhibit "E") of a sign at the cemetery, established in 1764, with the burial of one Sarah Ledew in that year being oldest recorded burial, as compiled by Jean Ann Orser Lupinetti (see attached Adler Exhibit "C").

22. The July 12, 1912 construction drawing (Adler Exhibit "B") provided by the NYS DOT is of US Route 9, in that it shows the roadway running immediately on the east side of Sparta Cemetery, in the Town of Ossining, just as it does today.

23. The construction drawing depicts a 66-foot wide right-of-way running along the east side of Sparta Cemetery.

24. An inspection of US Route 9 and the Sparta Cemetery revealed that the roadbed on US Route 9 is approximately 36 feet wide and supports one lane of travel in each direction in front of the cemetery (immediately to the south of the cemetery, US Route 9 is striped to provide two lanes of travel in either direction – See attached Adler Exhibit "F").

25. No shoulders are provided on the roadway and immediately to the north of the cemetery there is a painted median in the center of the roadway, which places the two travel lanes on the outside of the roadway.

26. The NYS DOT Traffic Volume Report indicates that approximately 16,000 vehicles per day passed Sparta Cemetery on US Route 9 in 2008 (Adler Exhibit "D").

27. This translates to approximately 15 cars per minute passing next to the driveway in the southbound direction during the busiest hour.

28. A dry stone wall, which can be seen in the attached photograph (Adler Exhibit "F"), marks a physical boundary between the cemetery and the public highway which is located 18 feet from the edge of the road.

29. A 10-foot wide driveway enters the cemetery at its south end from US Route 9. The driveway is roughly paved with asphalt and slopes toward the roadway at a grade of approximately 10 percent (see Adler Exhibit "G").

30. The Americans with Disabilities Act Accessibility Guidelines recommends a maximum slope of 8.33 percent on sidewalks.

31. The center of the driveway has a thin coating of moss and the entire driveway is leaf-covered in the fall.

32. The cemetery driveway is only visible to southbound motorists (motorists closest to the cemetery) for a distance of 235 feet (see Adler Exhibit "H").

33. The posted speed limit on this section of US Route 9 is 40 mph.

34. For a 40-mph roadway, the minimum stopping sight distance recommended by the American Association of State Highway and Transportation Officials in their publication, A Policy on the Geometric Design of Highways and Streets, 2004 Edition, is 305 feet.

35. The driveway is visible to southbound motorists on US Route 9 for a distance considerably less (75 feet less) than the minimum value recommended by the American Association of State Highway and Transportation Officials.

36. On the easternmost side of the cemetery, there is a headstone for one Jules Bourglay, aka the Leather Man, located on the south side of the driveway a distance of 20 feet from the traveled edge of US Route 9 (see Adler Exhibit "J").

37. Mr. John Lee, residing on Liberty Street in Ossining, NY, has testified that he has lead groups of elementary students, senior citizens and other persons on tours of the cemetery for over 30 years and that he includes the Leather Man's gravesite on every tour.

38. Ms. Cathy Crisfield, residing on Charter Circle, Ossining, NY, has testified that she has led groups of elementary students, local troops of Boy Scouts and numerous other persons on tours of the Sparta Cemetery for over ten years and that the grave of the Leather Man is a regular stop on such tours.

Professional Opinion

39. The Act of 1703 describes the New York to Albany Post Road (as US Route 9 is still known today immediately to the south of Sparta Cemetery, in the Town of Mount Pleasant).

40. The Albany Post Road had a designated right-of-way of 66 feet.

41. The width of the right-of-way of on US Route 9 by Sparta Cemetery, as measured from the July 20, 1912 NYS DOT construction drawing, is also 66 feet.

42. These two pieces of information lead me to conclude that the US Route 9 has a right-of-way width of at least 66 feet immediately adjacent to the Bourglay gravesite.

43. If the 36-foot wide roadbed is centered in the 66-foot right-of-way, the right-of-way extends 5 feet on either side of the edge of the road.

44. If the dry stone wall at the edge of the cemetery marks the edge of the highway boundary, the right-of-way extends 18 feet from the edge of the road on its west (cemetery) side.

45. Since the Bourglay headstone lies 20 feet from the edge of the road, it is most likely located between two (2) and five (5) feet from the highway boundary.

46. Depending on the orientation of the body at the headstone (perpendicular, parallel or otherwise), the grave may extend into the public right of way.

47. At approximately 10 percent, the slope on the driveway adjacent to the gravesite is greater than the 8.33 percent recommended by the Americans with Disabilities Act Accessibility Guidelines.

48. The center of the driveway is moss covered and the entire driveway is covered with leaves in the fall.

49. When wet, leaves and moss are slick and, particularly on a sloping grade, can present difficulty for standing and walking, especially for the elderly.

50. Groups of children are more active than adults and are sometimes prone to actions leading to sudden movements which could also present a slipping hazard.

51. The driveway slopes toward US Route 9 where there is no shoulder to separate traffic from the driveway and where the sight distance is considerably less than the 305 feet recommended by the American Association of State Highway and Transportation Officials.

52. Larger groups stopping at the Leather Man gravesite will extend into the public right-of-way and closer to the road.

53. It is foreseeable that an individual could slip and fall on the sloping driveway by the gravesite, particularly when the ground is wet.

54. If in a larger group, it is possible this could occur close to the road and that the individual could roll the short distance downhill into the road.

55. In such a circumstance, with the absence of a shoulder to separate traffic from the edge of the road and with visibility less than the recommended value, the potential exists for a visitor to the gravesite to be struck by a passing vehicle.

56. Because of the heavy volumes traveling on US Route 9, the possibility of an incident occurring is greater.

57. If the grave were relocated more centrally in the graveyard, this risk would be all but eliminated.

Conclusion

58. US Route 9 is a busy public highway.

59. The Leather Man grave abuts the cemetery's driveway adjacent to the highway boundary and the driveway slopes to the edge of the road at a grade exceeding the maximum valued recommended by the Americans with Disabilities Act Accessibility Guidelines.

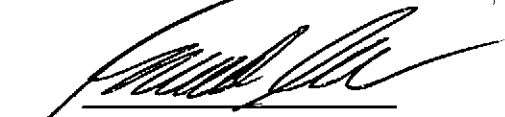
60. During certain times of the year and under certain weather conditions, the driveway can be slippery.

61. The Leather Man gravesite is frequently the subject of tours.

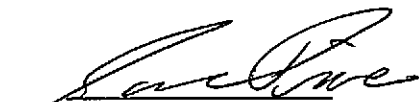
62. The potential exists, particularly for group tours in the fall or when it is wet or icy, for an individual to fall and roll into the roadway.

63. Less than the recommended minimum distance is provided to the driveway for southbound traffic on US Route 9 to allow vehicles to stop safely upon encountering such an occurrence.

64. If the Leather Man gravesite is relocated more centrally in the cemetery, the risk that someone will fall while visiting the gravesite and be struck by a passing vehicle will be all but eliminated.


Bernard Adler, P.E.

Sworn to before me this
6th ~~September~~ ^{October} Day of ~~September~~, 2010


Notary Public

JOANNE PRICE
Notary Public, State of New York
No. 01PR6046007
Qualified in Dutchess County
Commission Expires August 7, 2014

of her distressed subjects may take their speedy and due effect. **BEE** it therefore Declar'd & Enacted by his Excellency the Governour by and with the advice and Consent of her Majties Council and the Generall Assembly of this Collony & it is hereby declared and Enacted by the Authority of the Same that the said Proceedings and Prosecutions, for the Same feigned and pretended Crimes and Misdemeanors are & were undue and illegall and the Judgement and Judgements, sentence and sentences, against the Said Coll Bayard and Alderman Hutchins and all and every matter and thing relateing therunto are Reversed annulled and made void and of no effect to all Intents, Constructions, and Purposes whatsoever and the Said Nicholas Bayard and John Hutchins hereby are and are declared and hereby Enacted to be as to their Honour and Property in the same state Right and Condition as if no such Prosecution, Tryall, Judgement, or sentence had been.

And to the end that right may be done to the Said Collonell Bayard and Alderman Hutchins and to the Intent that the Memory of these matters may be put into perpetuall Oblivion and that such evill Practices and Proceedings may not hereafter be brought into Example to the prejudice of any person or persons whatsoever, **BEE** it further Enacted by the authority aforesaid that all Judgements & sentences, records Process and Proceedings and all other matters and things relateing therunto be wholly obliterated cancelled and utterly destroyed, any Law statute or Custome to the Contrary in any wise notwithstanding.

[CHAPTER 131.]

[Chapter 131, of Livingston & Smith and Van Schaack, where the title only is printed. Printed in full in Brinley's Bradford, pp. 222, 255; Baskett, p. 65. Continued by chapter 154.]

AN ACT for the Laying out Regulateng Clearing and preserving Publick Comon highways thro'out this Colony.

[Passed, June 10, 1703.]

For the better Laying out ascertaining, Repairing and preserving the Publick Comon and General highways within this Colony. Be it Enacted by the Govr. Council and General Assembly of this Colony and by the Authority of the same. That there be laid out preserved and kept for ever in good and Sufficient Repair one Publick Comon & General highway to Extend from the now Site of the City of New York thro' the City and County of New York and the County of West Chester of the breadth of four Rod English Measure at the least, to be Continue and remain

for ever the Publick Comon General Road and highway from the said City of New York to the adjacent Collony of Connecticut. And also one other Publick Comon and General Highway to Extend from the ferry in Kings County thro' the same County, Queens County and the County of Suffolk of the same breadth of four Rod English Measure at the Least to be Continue and Remain for ever the Publick Comon General Road and Highway from the ferry aforesaid to the Town of East Hampton in the County of Suffolk. And one other Publick Comon General Highway to Extend from Kings Bridge in the County of West Chester thro' the same County of West Chester Dutchess County and County of Albany of the breadth of four Rod English Measure at the Least to be Continue and remain for ever the Publick Comon General Road and Highway from King Bridge aforesaid to the Town of Crawley over against the City of Albany. And further one other Publick Comon General Highway to extend from the Southerly Bounds of the County of Orange, thro' the same County of Orange to the County of Ulster & County of Albany of the breadth of four Rod English Measure at the least to be Continue and remain for ever the Publick Comon General Road and highway from the Southerly bounds of the County of Orange aforesaid to the City of Albany & from thence to the Town of Schanectady in the County of Albany aforesaid. And also one other Publick Comon General Road and highway in the County of Richmond from the ferry at the watering place thro' the said County to Billups point over against Amboy in the Province of East new Jarsey.

And be it further Enacted by the Authority aforesaid That there shall be Comon Highways Laid out, ascertained repaired preserved for ever of the Breadth of four Rods English measure as well from the Several Towns and Villages within this Collony to their next Contiguous Towns and Villages and from one Town or Village to another as to the severall and respective publick Comon and General Roads and Highways before mentioned and to Such Convenient Landing places in each respective Town & Village where their respective Scituaxons will afford and require it for the better & easier Transportacon of goods and the Com-mollous passing of Travellers as Direct and Convenient as the Circumstances of place will admit of at the discrecons of the Comms. respectively hereafter menconed.

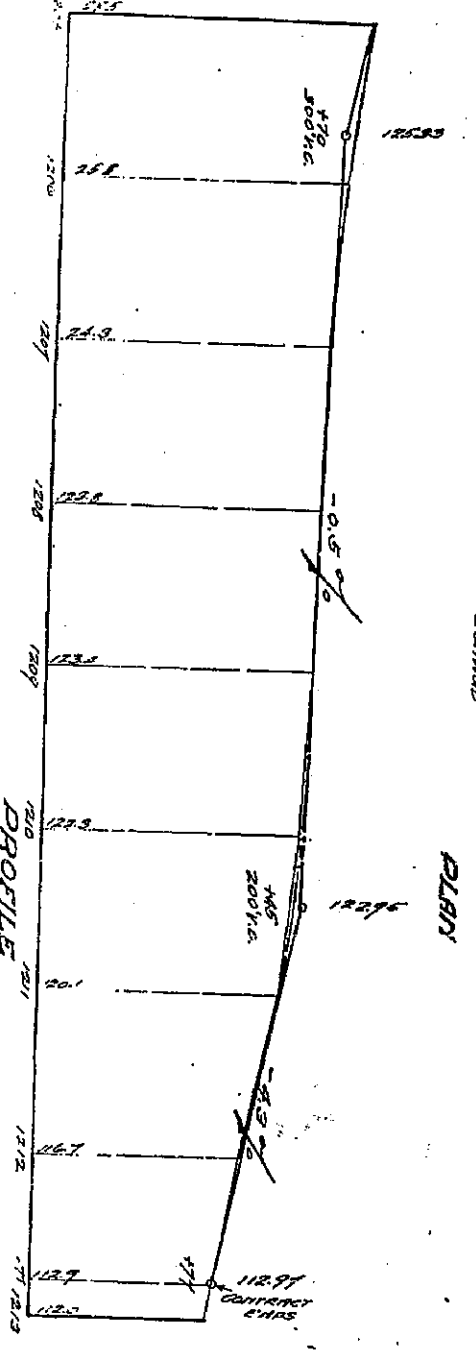
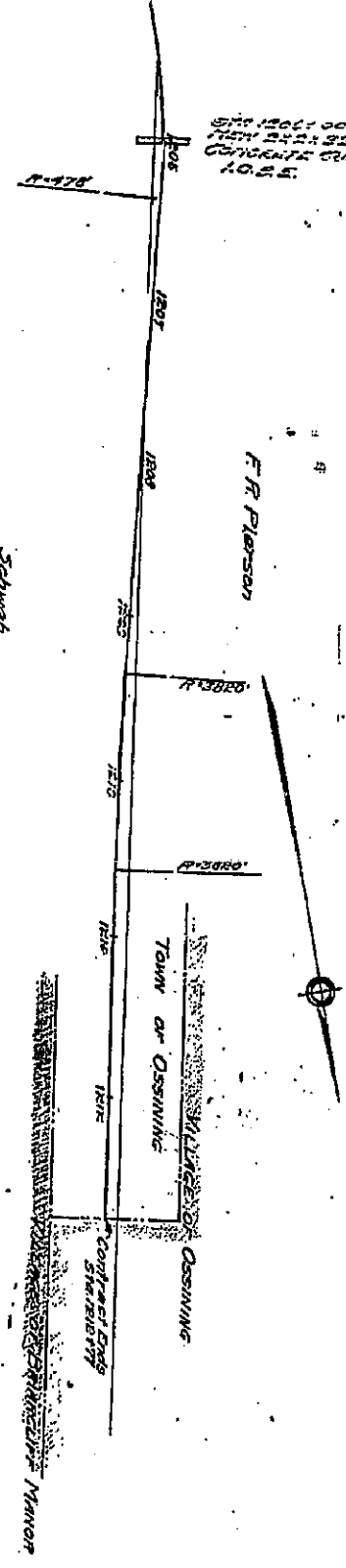
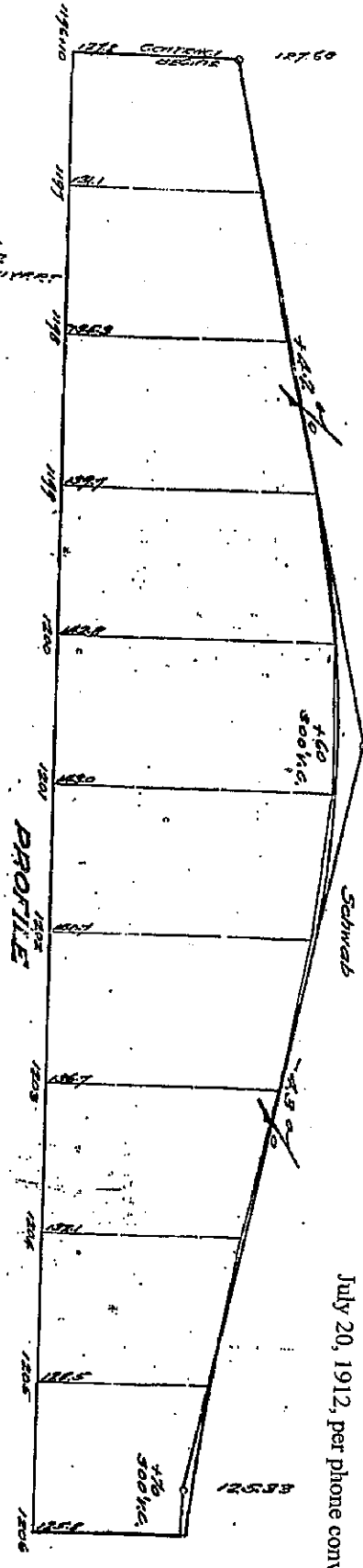
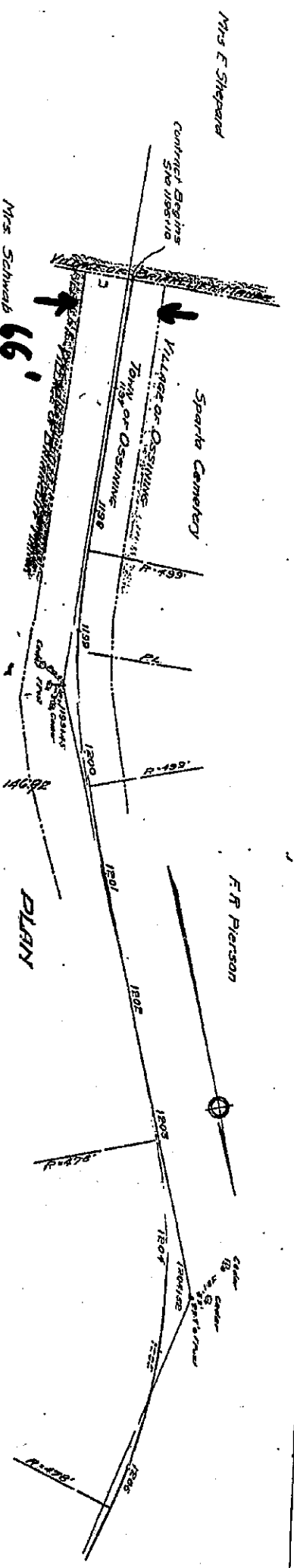
And be it further Enacted by the Authority aforesaid if any person or persons from and after the Publication hereof shall Girdle Bark or Cutt down any Liveing Tree or Trees Standing and Growing in any Comon and publick Road or highway already laid out or now Comonly used as Such or that hereafter shall

Poor Quality

ALBANY POST ROAD

SHEET No 2
TOWN OF
OSSINING
WESTCHESTER
COUNTY
ROUTE 2, 50A

July 20, 1912, per phone conversation with NYS DOT Records Bureau

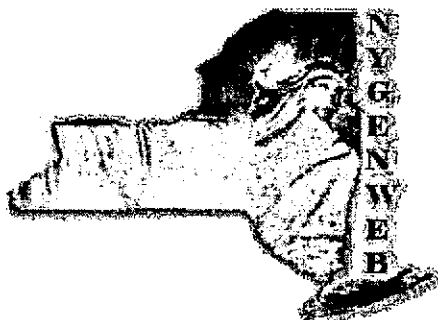


Search billions of records on Ancestry.com

First Name

Last Name

Search



NYGenWeb Westchester County, NY

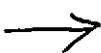
Sandstones of Sparta Cemetery Ossining, NY

Compiled by Jean Ann Orser Lupinetti

The following are all the "redstones" or "sandstones" that are readable in the Sparta Cemetery in Ossining, NY. Sandstones are usually the oldest gravestones in Westchester County cemeteries (slate stones are older in New England). Redstones or sandstones are also called brownstones. Their writings can deteriorate quickly from nature's elements causing internal stresses on the stones. Stones that are 200 years old can appear perfect one day and the next day the entire face on the stone can "let go" and the entire inscription on the stone is lost forever. The spelling on the stones have not been corrected in the transcription which follows. They were recorded as they appear.

SURNAME	Given Name	Death Date	Age at Death	Miscellaneous (Parents, Spouses, Epitaphs, Etc.) <i>Comments in Italics</i>
ANDEM	Benjamin Franklin	08-13-1805	1y3m10d	Son of Moses and Sarah Andem
ARNOLD	Hannah	05-08-1794	15y9m21d	Daughter of William and Mary Arnold "The pale consumption gave the fatal blow Thy effect mortal tho the disease was slow With lingering pains death found me sore oppress'd Pity'd my sighs and kindly gave rest."
ARNOLD	Mary	06-23-1798	47y12d	Wife of William Arnold (<i>stone gone</i>)
BISHOP	Jane	10-11-1806	68y7m21y	(<i>stone damaged</i>)
BISHOP	John	04-02-1811	12y10m6d	Son of John & Sarah Bishop
BISHOP	Mary	09-01-1801	8y13d	Daughter of John & Sarah Bishop
BISHOP	Thomas	01-20-1797		Born 04-11-1728
BROWN	Abraham	01-03-1805	25y3m	Haste my beloved fetch my soul Up to the blest abode Fly for my spirit longs to see My Saviour and my God.

BUYLEA	John	05-22-1775	3y1m27d	Born 03-25-1772 Son of John & Susanah
DONNELLY	James	08-26-1792	6m	Son of Peter & Nancy Donnelly Calm resignation crown'd his latest hours While death stood ready to arrest the powers Of flesh & blood The mind serene & free Bound for the joys of im(mortality) ?
FISHER	Benjamin	08-17-1803	17y	Haste my beloved and remove these interposing days Then shall my pashion all ----- And all by powers be praised ?
GRAYSON	Joseph	08-30-1796	16y	
HORTON	Sophia	05-05-1803	73y	(stone damaged)
HUNT	Arnold	11-14-1792	69y	Ye dying sons of men The gospel's voice attend
LADREW	Abraham	06-27-17??	?y?m15d	Husband of Anna Ladew (epitaph worn)*
LADREW	Anna	12-25-1795	68y10m25d	Wife of Abraham Ladew *
LADUE	Abraham	10-21-1774	(5y23d)	Born 09-28-1769 (this was stone damaged by the cannon ball fired from the Vulture Sept. 1780) (stone gone) *
LEDEW	Daniel	11-15-1772	78y	Born 1694 *
LEDEW	Mary	05-10-1773	78y	Born 1695 *
LEDEW	Sarah	08-15-1764	5y7m11d	Born 04-26-1759 * (* = family plot in wall) This is oldest stone in cemetery.
Mc CREERY	Anney	06-18-1804	73y9m18d	How lov'd how fair how valu'd once avails thee not To whome related or by whome begot A heap of dust alone remains with thee Tis' all thou art & all proud shal ---- (stone damaged)
MERRIT	Bartholomew	01-28-1799	19y8m28d	Son of Abraham & Elizabeth Merrit
MERRITT	Samuel	10-03-1803	84y	(stone damaged)



New York State Department of Transportation
Traffic Volume Report

County Order	End Mile Point	Count Reference	LOC Marker	Section Length	Section End Description	LATEST COUNT		-----PREVIOUS COUNTS-----				Count Station Number	YR	
						EST AADT	YR	EST AADT	YR	EST AADT	YR			EST AADT
Route US9 County 119 WESTCHESTER Region 08														
3	11.92	9 87032064	00.63	BENEDICT AVE		23530	**	23100	06	24480	03	25540	00	0051
3	12.90	9 87032070	00.98	RT 448		17590	**	17260	06	18250	03	16470	00	0052
3	14.60	9 87032080	01.70	RT 117 N TARRYTOWN		15780	08	14880	00	17810	96			0150
3	18.33	9 87032098	03.73	RT 133 OSSINING		15600	**	15310	06	19410	03	15570	00	0095
3	19.98	9 87032135	01.65	START 9A OLAP		16840	**	16530	06	19230	03	16880	00	0053
3	20.63	9 87032151	00.65	END RT 9A OLAP CROTON POINT		55830	**	49890	02	48330	01	47110	00	0027
3	24.10	9 87032159	03.47	ACC 9A MONTROSE		50100	08	50070	07	49580	06	53850	05	0021 CC
3	27.13	9 87032194	03.03	RT 9A WELCHER AVE		31150	08	35300	05	34150	02	29860	99	0042
3	28.58	9 87033002	01.45	RT 35 START 6 202 OLAPS		31870	08	31030	99	31080	96			0056
3	29.19	9 87033014	00.61	RT 987H BEAR MT PKWY PEEKSKILL N LN		39310	**	33360	99	29740	96	30160	95	0032
3	29.31	6 87032000	00.12	END 6 202 OLAPS		25780	08	23440	00	22630	97			0099
3	31.16	9 87034002	01.85	MANITOU RD		17680	**	17520	07	16470	04	15030	01	0057
3	31.50	9 87034020	00.34	PUTNAM CO LINE		17100	**	16790	06	15950	02	14200	99	0058
Route US9 County 079 PUTNAM Region 08														
4	01.68	9 87034023	01.68	RT 403		16460	**	16310	07	16500	03	14930	00	0059
4	04.01	9 84041017	02.33	CR 11 TRAVIS COR RD		11800	08	12660	05	11860	02	10900	00	0060
4	08.16	9 84041041	04.15	RT 301 MC KEELS COR		11840	08	11880	03	10590	00	10730	97	0061
4	10.08	9 84041082	01.92	CR 10 N HIGHLANDS RD		14550	08	14420	05	12060	99	12520	98	0028
4	12.32	9 84041101	02.24	DUTCHESS CO LINE		16350	08	17390	05	15740	02	15370	99	0014
Route US9 County 027 DUTCHESS Region 08														
5	02.36	9 84041123	02.36	VAN WYCK LAKE RD		18050	08	16800	06	18600	05	16840	02	0071
5	02.56	9 82051024	00.20	ACC RT 84I		22920	**	21690	02	19390	99	21670	96	0003
5	03.48	9 82051026	00.92	RT 52 FISHKILL		41360	**	39140	02	31680	99	31110	95	0064
5	06.60	9 82051036	03.12	CR 28 OLD HOPEWELL RD		32550	08	31120	02	31180	99	33000	95	0065
5	07.27	9 82051067	00.67	CR 93 MYERS CORS RD		39050	08	39330	02	35920	99	31860	96	0047
5	07.91	9 82051073	00.64	CR 104 NEW HACKNSCK RD		43220	**	40910	02	42410	99	42470	96	0043
5	09.30	9 82051080	01.39	RT 9D		40220	**	38070	02	35870	99	36430	96	0066
5	12.25	9 82051094	02.95	RT 113 SPACKENKILL RD		46230	**	43750	02	43300	99	38740	96	0067
5	13.39	9 82051124	01.14	BEECHWOOD AVE		63300	08	49010	00	48090	97	47670	94	0019
5	14.44	9 82051135	01.05	ACADEMY ST		49520	**	46050	00	44460	97			0069
5	15.59	9 82052005	01.15	RTS 44&55		44500	**	39770	02	40150	99	33840	96	0070
5	16.50	9 82052017	00.91	POUGHKEEPSIE N CTY L DELAFLD		33240	08	29300	02	30380	99	31210	96	0016
5	16.96	9 82052025	00.46	RT 9G		39320	08	34190	06	31960	02	33110	99	0020
5	19.74	9 82053005	02.78	CR 40A ST ANDREWS RD		23520	**	22460	03	22280	00	17950	97	0046
5	21.95	9 82053033	02.21	CR 41 E MARKET ST		21930	**	21530	06	21870	03	19360	00	0038
5	25.90	9 82053055	03.95	CR 37 N CROSS RD		13990	**	13740	06	11030	01	12970	98	0012
5	31.96	9 82053094	06.06	RT 308 RHINEBECK		14400	08	9470	02	9430	99	9100	96	0037
5	34.31	9 82053155	02.35	RT 9G		10910	08	11870	05	11890	02	10760	99	0077
5	37.26	9 82053178	02.95	RT 199 RED HOOK		9950	08	12450	03	11000	02	11030	99	0075

Adler Exhibit E – Sign identifying year Sparta Cemetery was Established



Poor
Quality

Adler Exhibit F – Driveway into Sparta Cemetery from US Route 9
Note grade, leaves, dry stone wall and Leatherman headstone
(just to the right of the pillar, which is to the right of the orange sign)



Adler Exhibit G – Driveway into Sparta Cemetery from US Route 9
Note grade, moss, and Leatherman headstone
(just to the right of the pillar, which is to the right of the yellow sign)



Poor
Quality

Adler Exhibit H – Driveway into Sparta Cemetery from US Route 9 (foreground on left) with traffic approaching in the southbound lanes.



Adler Exhibit I – Headstone of Jules Bourglay (the Leather Man)

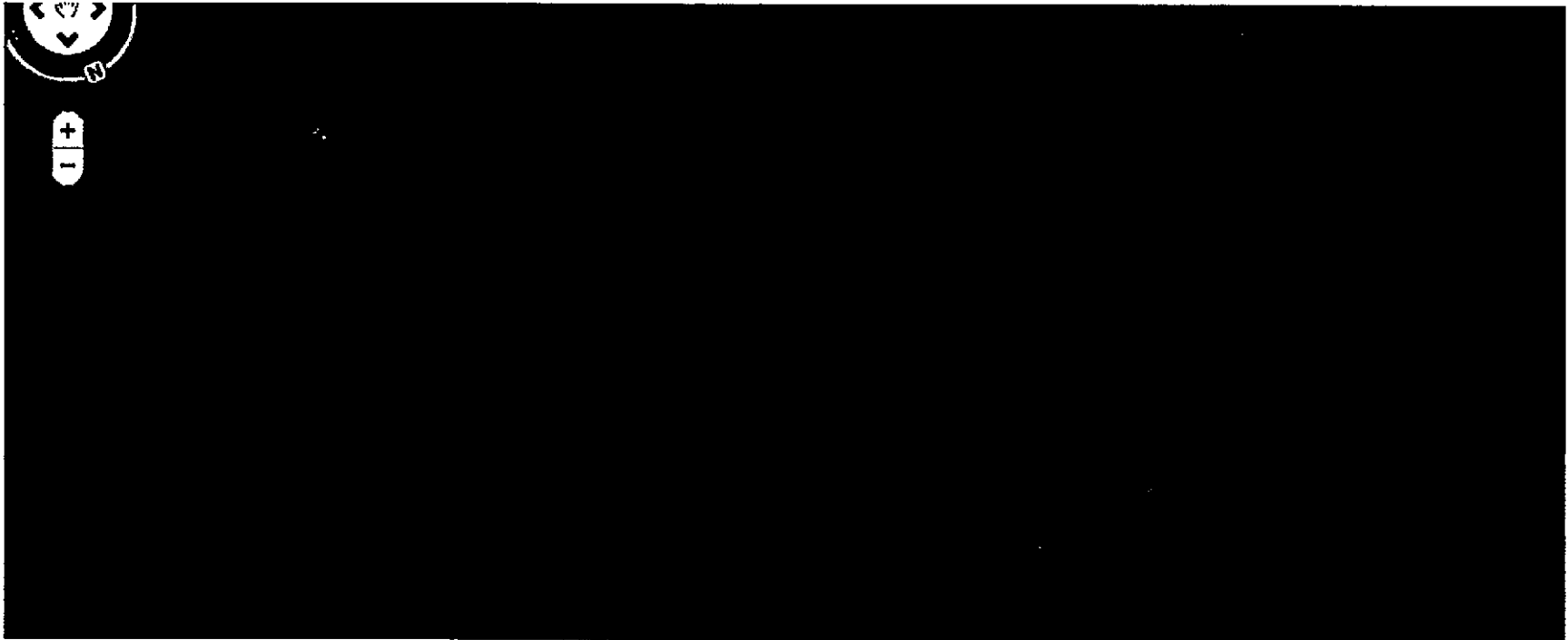


Adler Exhibit E – Sign identifying year Sparta Cemetery was Established



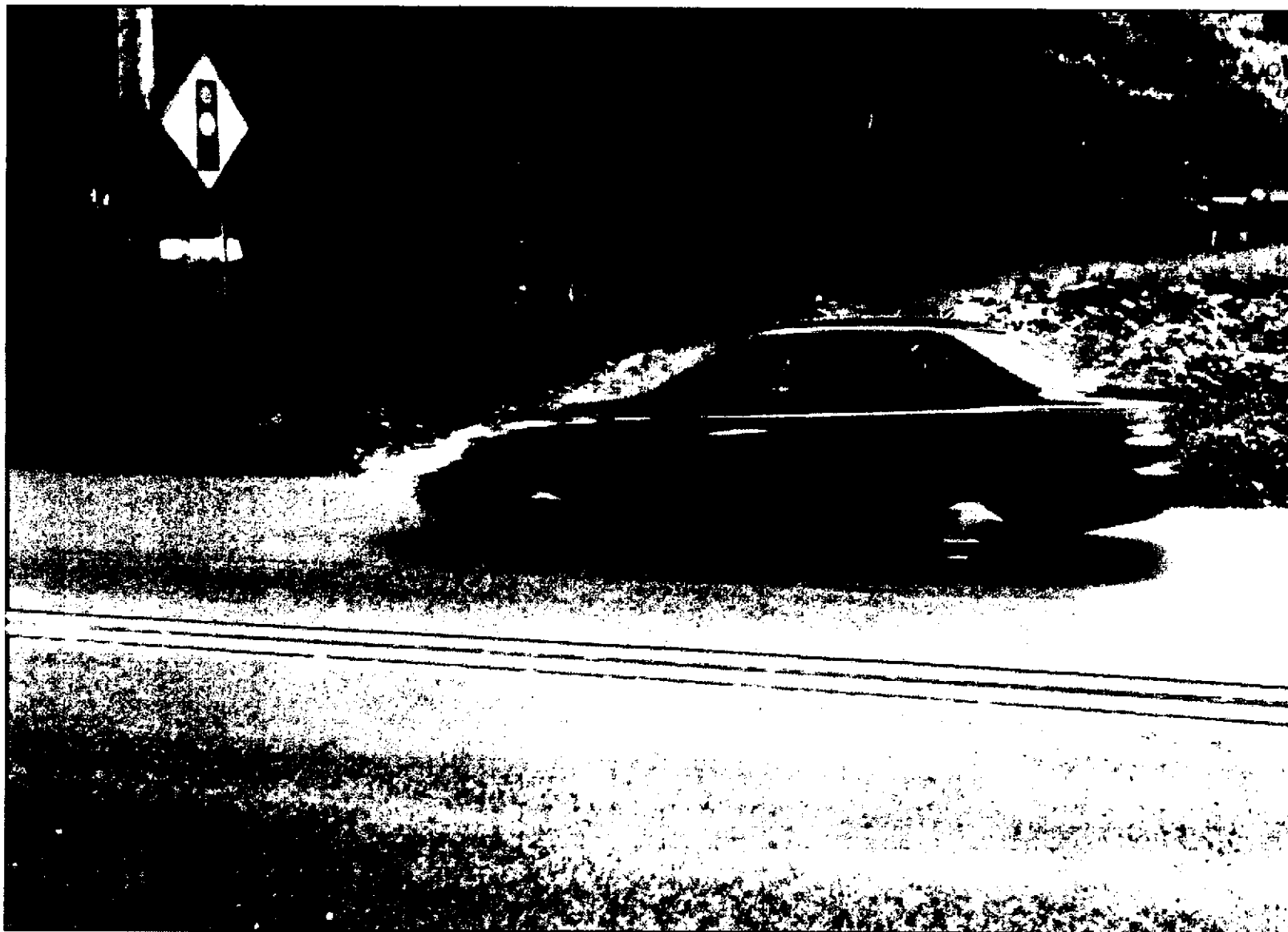
Poor
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Adler Exhibit F – Driveway into Sparta Cemetery from US Route 9
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**Poor
Quality**

Adler Exhibit G – Driveway into Sparta Cemetery from US Route 9
Note grade, moss, and Leatherman headstone
(just to the right of the pillar, which is to the right of the yellow sign)



Poor
Quality

Adler Exhibit H – Driveway into Sparta Cemetery from US Route 9 (foreground on left) with traffic approaching in the southbound lanes.



Poor
Quality

Adler Exhibit I – Headstone of Jules Bourglay (the Leather Man)



Adler Consulting, Transportation Planning & Traffic Engineering, PLLC

Bernard Adler, P. E., President

Professional Registration:

Professional Engineer - New York
 - New Jersey
 - Connecticut

Education:

Stevens Inst. of Technology - Mgmt. Sciences, Postgraduate Courses
Long Island University - MS, Management Engineering 1970
Polytechnic Inst. of Bklyn. - MSEE, Electrical Engineering 1966
City College of New York - BEE, Electrical Engineering 1962

Teaching:

Adjunct Assistant Professor of Civil Engineering, Manhattan College, Bronx, New York, 1982, 1983.

Professional Experience:

Principal, Adler Consulting, White Plains, NY, 1991 to present. Mr. Adler is responsible for the all the quality control as well as client and government liaison facets of the Firm's operation. The Firm provides professional services in the areas of Transportation Planning and Traffic Engineering. The expertise was gained from the wealth of experience in conducting numerous studies for the public and private sectors.

Senior Vice President, Raymond Keyes Associates, Inc., Tarrytown, N.Y., 1987 to 1991.

Mr. Adler managed the firm's approximately 30-member staff of the Transportation/Traffic Engineering Division which primarily focused on the data collection, analysis, preparation of reports and making presentations before approving agencies concerning the present and post-development traffic conditions and the highway improvements required to accommodate development projects.

For the public sector, services included: corridor studies; network modeling; multimodal analyses; designs including plans, specifications and estimates (PS&E's); progression analyses; and, Transportation Development Districts. Mr. Adler was responsible for the efficient and timely production and quality control of services to ensure that all traffic designs and studies meet the highest professional standards.

Bernard Adler, P.E.

Page 2

Commissioner of Traffic, The City of White Plains, N.Y., 1979-1987. During a period of major redevelopment, Mr. Adler:

Implemented innovative programs, including: New York States first computerized network traffic control system; overhead street name signs; energy conservation programs; and, a fire preferential routing system.

Managed the design, installation, maintenance and operation of all traffic control devices for the control of pedestrian and vehicular traffic, including signs, signals and pavement markings.

Coordinated with other planning agencies of the City for traffic and transportation needs of the present and future.

Studied and recommended the location and use of on-street parking meters for regulation of traffic.

Advised the Mayor, Common Council and other agencies of the government as to the City's traffic requirements regarding the welfare of the public with respect to traffic.

Exercised supervision, jurisdiction and control of the Department of Traffic and its operations and functions, records and files of approximately 20 personnel and their discipline.

Directed and supervised the expenditure of all monies appropriated to the Department of Traffic.

Served as Secretary to the White Plains Traffic Commission.

Professional Organizations:

Fellow	Institute of Transportation Engineers (ITE)
Member	National Society of Professional Engineers
Member	Transportation Research Board: Motorists Services Committee, A3B05, 1970-1988 Advisory Panel on "Urban Pedestrian Traffic Control" (17-11)
Member	The Institute of Electrical and Electronics Engineers, Inc.

Bernard Adler, P.E.

Page 3

ITE - METROPOLITAN SECTION OF NEW YORK & NEW JERSEY

Director	1986, 1987
President	1985
Vice President	1984
Secretary/Treasurer	1983
Chairman	Equal Opportunity Program Committee, 1977
Chairman	School Coordination Committee, 1976

ITE - INTERNATIONAL

Member	Board of Direction, 1986-1989
General Chairman	57th Annual Meeting, New York City, August 1987
Chairman	Annual Meeting Committee, 1988, 1989
Member	Philanthropic Steering and Advisory Committee, 1990/91
Member	1992 Nominations Committee
Member	Annual Meeting Committee, 1987
Member	Budget Committee, 1989
Member	International Districts (7 & 8) Committee, 1987
Member	Transportation Achievement Award Committee, 1986
Chairman	Systems Planning Division, Department 6, 1985
Assistant Chairman	1979-1980
Editor	CCSAG Newsletter, Volume 2, Number 4, December 1979

ITE - DISTRICT ONE

Chairman	Annual Meetings Committee, 1984
Chairman	1983 Annual Meeting
Chairman	Career Guidance Committee, 1981
Chairman	Technical Committee, 1978-1979

Awards and Listings:

"Outstanding Engineer in Government", Westchester Chapter, New York State Society of Professional Engineers, February 1981.

"Commendation for Design Excellence", for conduct of "Neighborhood Traffic Studies", national competition sponsored jointly by the U.S. Department of Transportation and the National Endowment for the Arts October, 1981.

Biography included in Who's Who in the East, 1983/1984, 1986/1987.

"Distinguished Service Award", District One, Institute of Transportation Engineers, 1986.

"Ivor S. Wispart Transportation Engineer Award", Metropolitan Section of New York and New Jersey, Institute of Transportation Engineers, 1989

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SUPREME COURT, STATE OF NEW YORK
COUNTY OF WESTCHESTER

X-----X

In the Matter of the Application of the

Ossining Historical Society Museum

for an order pursuant to

Not-for-Profit Corporations Law

Section 1510.

X-----X

AFFIDAVIT IN SUPPORT

Index No.

Following is the affidavit of John Lee.

The balance of this page is intentionally left blank.

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

JOHN LEE, residing at 11 Liberty Street, Ossining, NY, being duly sworn, deposes and says:

I am a member of the Jug Tavern of Sparta, Inc. and Ossining Historical Society, both domestic Not-for-Profit corporations chartered by the New York State Board of Regents, and have led public tours of the historic Sparta Cemetery, a local cemetery with graves dating to the colonial era, for over thirty years.

During my time giving tours of Sparta Cemetery, I have led groups of elementary students, senior citizens and numerous other persons.

One site of interest on such tours is the grave of the Leather Man, a figure of historical interest in Westchester and Fairfield Counties. I have never failed to include the gravesite on any of the tours of the cemetery I have conducted.

The Leather Man grave is located in an area of the cemetery with a fairly steep slope downwards toward New York State Route 9 and such grave site is in close proximity to the edge of the right of way. I note to the Court that I have observed both young children and the elderly finding it challenging to safely navigate the area around the grave site as the footing can be slippery and hazardous.

I make this affidavit in support of the petition of the Ossining Historical Society to exhume the body of the Leather Man for reasons of public safety and to conduct forensic and DNA analysis of his remains so as to better carry out its mission of preserving sites of local historical interest and educating the public on matters of local history.

JOHN LEE 

Sworn to before me this
15th day of July, 2010.


NOTARY PUBLIC

DAVID J. BANONITE
NOTARY PUBLIC, State of New York
No. 31-4964709
Qualified in New York County
Commission Expires 7-2-2014

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SUPREME COURT, STATE OF NEW YORK
COUNTY OF WESTCHESTER

X-----X

In the Matter of the Application of the

Ossining Historical Society Museum

for an order pursuant to

Not-for-Profit Corporations Law

Section 1510.

X-----X

AFFIDAVIT IN SUPPORT

Index No.

Following is the affidavit of Cathy Crisfield.

The balance of this page is intentionally left blank.

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

CATHY CRISFIELD, residing at Charter Circle, Ossining, NY, being duly sworn, deposes and says:

I am a member of the Ossining Historical Society and have led public tours of the historic Sparta Cemetery, which dates to the time of the American Revolution, for over ten years.

During my time giving tours of Sparta Cemetery, I have led groups of elementary students, local troops of Boy Scouts and numerous other persons.

A regular stop on such tours is the grave of the Leather Man, a figure of significant local historical interest.

The guidebook for the cemetery tour includes the Leather Man's grave as a place of interest and, upon information and belief, persons conducting self-guided tours outlined in the guidebook likewise stop at the Leather Man's grave.

The topography of the area surrounding the grave is sloped toward New York State Route 9 and at times the ground is mossy and slippery. In my experience the footing for pedestrians can be hazardous.

I make this affidavit in support of the petition of the Ossining Historical Society to exhume the body of the Leather Man for reasons of public safety and to conduct forensic and DNA analysis of his remains so as to better carry out its mission of preserving sites of local historical interest and educating the public on matters of local history.


CATHY CRISFIELD

Sworn to before me this
27th day of September, 2010.


NOTARY PUBLIC

DAVID J. BANKO
NOTARY PUBLIC, State of New York
No. 31-4964709
Qualified in New York County
Commission Expires 11-2-2014

SUPREME COURT, STATE OF NEW YORK
COUNTY OF WESTCHESTER

X-----X

In the Matter of the Application of the

Ossining Historical Society Museum

for an order pursuant to

Not-for-Profit Corporations Law

Section 1510.

X-----X

AFFIDAVIT IN SUPPORT

Index No.

Following is the affidavit of Nicholas F. Bellantoni.

The balance of this page is intentionally left blank.

New Haven, or at a licensed New York State facility and will not involve the destruction of the skull, after which testing the remains will be reburied; and

c) DNA testing of a molar and/or a fragment of large bone, preferable from the femur and weighing approximately 4 grams, with such test to be performed at the Applied Genetics Laboratory at the University of Connecticut, or at a licensed New York State facility, which will involve the destruction of such dental and bone tissue submitted for testing. DNA will assist in the determination of the Leatherman's ancestry and could be used to compare with potential contemporary relatives for future family identification; and

d) Stable carbon isotope and trace element analysis to determine the diet of the Leatherman during his first 20 years of growth and development. This test can distinguish the differences between European and American diets and along with DNA determine if the Leatherman was born in France or the United States, with such test being performed at University of Southern Ontario, or at a licensed New York State laboratory and will involve the destruction of a molar to be submitted for testing;

I make this affidavit in support of the petition of the Ossining Historical Society to exhume the body of the Leatherman for reasons of public safety and to conduct forensic and DNA analysis of his remains so as to better carry out its mission of preserving sites of local historical interest and educating the public on matters of local history.



NICHOLAS BELLANTONI

Sworn to before me this
22 day of June, 2010.



NOTARY PUBLIC

ELAINE MORGANSON
NOTARY PUBLIC
MY COMMISSION EXPIRES 6/30/12

SUPREME COURT, STATE OF NEW
YORK, COUNTY OF WESTCHESTER

In the Matter of the
Application of the Ossining
Historical Society Museum
for an order pursuant to
Not-for-Profit Corporations
Law Section 1510.

VERIFIED PETITION

David J. Bamonte
Attorney at Law
540 N. State Road
Briarcliff Manor, NY 10510
(914) 941-0600